



1 motion.” D. Nev. R. 7-2(d). As the Ninth Circuit has held, “[f]ailure to follow a district  
2 court’s local rules is a proper ground for dismissal.” *Ghazali v. Moran*, 46 F.3d 52, 53  
3 (9th Cir. 1995); *see, e.g., Roberts v. United States of America*, No. 2:01-cv-1230-RLH-  
4 LRL, 2002 WL 1770930 (D. Nev. June 13, 2002). However, before dismissing a case for  
5 failing to follow local rules or for failure to prosecute, the district court must weigh five  
6 factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s  
7 need to manage its docket; (3) the risk of prejudice to defendants/respondents; (4) the  
8 availability of less drastic sanctions; and (5) the public policy favoring disposition of  
9 cases on their merits.” *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002).

10 Under this test, “the public’s interest in expeditious resolution of litigation always  
11 favors dismissal.” *Yourish v. California Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999).  
12 Also, the Court’s need to manage its docket is manifest. *See State Farm Mutual*  
13 *Automobile Insurance Company v. Ireland*, 2:07-cv-01541-RCJ-RJJ, 2009 WL 4280282  
14 (D. Nev. Nov. 30, 2009). Further, Appellant’s failure to respond to Appellee’s Motion to  
15 Dismiss has unreasonably delayed the resolution of this case, and such unreasonable  
16 delay “creates a presumption of injury to the defense,” *Henderson v. Duncan*, 779 F.2d  
17 1421, 1423 (9th Cir. 1986).

18 The fifth factor also does not weigh in favor of Appellant because it appears that  
19 this bankruptcy appeal would not have been decided on the merits anyway, as this action  
20 appears to have been filed one to two days after the fourteen-day window for filing an  
21 appeal had closed. These four factors outweigh factor (4) and, accordingly, Appellee’s  
22 Motion to Dismiss (ECF No. 3) will be granted.


### 23 **CONCLUSION**

24 IT IS HEREBY ORDERED that Appellee’s Motion to Dismiss (ECF No. 3) is

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1 GRANTED. This bankruptcy appeal is dismissed without prejudice.

2 DATED this 1st day of June, 2011.

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5 Gloria M. Navarro  
6 United States District Judge  
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